

Remarks

Rejection Under 35 U.S.C. § 112, second paragraph

Claims 32 and 36-42 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants respectfully traverse this rejection to the extent that it is applied to the claims as amended.

The Examiner indicated that the phrase “a mixture comprising” is located in claim 41, line 3. However, this appears to be a typographical error since this phrase is used in claim 40.

The Examiner’s rejection focuses on the term “textured material” in claim 32 and the phrase “a mixture comprising” in claim 40. In response, claim 32 has been amended by deleting the term “textured material” and replacing it with “implantable material”. Support for this amendment can be found in the specification at least at page 26, line 12. Claim 40 has been amended by deleting the phrase “a mixture comprising”. Claim 40 as amended now refers to only one mixture. Therefore, the claims as amended are definite.

Double Patenting Rejection

Claims 32 and 36-42 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 5,843,743 or claims 1-20 of U.S. Patent No. 5,843,274; claims 1-4 of U.S. Patent No. 6,632,446 in view of U.S. Patent No. 5,0247,020 to Hsu (“Hsu”); claims 1-16 of U.S. Patent No. 5,573,934 or claims 1-69 of U.S. Patent No. 5,529,914 in view of Hsu; and claims 1-17 of U.S. Patent No. 6,465,001 in view of Hsu. In response, and solely to facilitate prosecution, Applicants submit a terminal Disclaimer to over come the double patenting rejections.

AMENDMENT AND RESPONSE TO OFFICE ACTION

Additional Amendments to the Claims

Claim 36 has been amended to replace “textured material” with “implantable material”, in view of the amendment to claim 32, from which claim 36 depends. Claims 38 and 40 have been amended to correct a typographical error, by replacing the term “macromers” with “macromer”.

Allowance of claims 32 and 36-42, as amended, is respectfully solicited.

Respectfully submitted,

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